

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION CONCERNING
TRANSMITTAL OF COPY OF INTERNATIONAL
PRELIMINARY REPORT ON PATENTABILITY
(CHAPTER I OF THE PATENT COOPERATION
TREATY)

(PCT Rule 44bis.1(c))

To:

FENSTER, Paul
FENSTER & COMPANY, INTELLECTUAL PROPERTY
LTD.
P.O. Box 10256
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09 DEC 2007

FILE No. 34452

G.E. EHRLICH (1906)

IMPORTANT NOTICE

Date of mailing (day/month/year)

15 November 2007 (15.11.2007)

Applicant's or agent's file reference

015/05198

International application No.

PCT/US2006/017281

International filing date (day/month/year)

04 May 2006 (04.05.2006)

Priority date (day/month/year)

04 May 2005 (04.05.2005)

Applicant

IMPULSE DYNAMICS NV et al

The International Bureau transmits herewith a copy of the international preliminary report on patentability (Chapter I of the Patent Cooperation Treaty)

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

| | | | |
|--|---|---|------------------|
| Applicant's or agent's file reference 015/05198 | FOR FURTHER ACTION | | See item 4 below |
| International application No. PCT/US2006/017281 | International filing date (<i>day/month/year</i>) 04 May 2006 (04.05.2006) | Priority date (<i>day/month/year</i>) 04 May 2005 (04.05.2005) | |
| International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237 | | | |
| Applicant IMPULSE DYNAMICS NV | | | |

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2).

Date of issuance of this report
06 November 2007 (06.11.2007)

Authorized officer
Agnes Wittmann-Regis

e-mail: pt06.pct@wipo.int

The International Bureau of WIPO
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Form PCT/IB/373 (January 2004)

From the
INTERNATIONAL SEARCHING AUTHORITY

PATENT COOPERATION TREATY

To:
PAUL FENSTER
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WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference

015/05198

Date of mailing
(day/month/year)

1 6 OCT 2006

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US06/17281

International filing date (day/month/year)

04 May 2006 (04.05.2006)

Priority date (day/month/year)

09 December 2005 (09.12.2005)

International Patent Classification (IPC) or both national classification and IPC

IPC: A61N 1/00(2006.01),1/32(2006.01);C12N 13/00(2006.01),5/00(2006.01)
USPC: 607/2,3,50,115;604/20;435/173.1,375

Applicant

IMPULSE DYNAMICS NV

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (571) 273-3201

Date of completion of this opinion

11 August 2006 (11.08.2006)

Authorized officer

Robert Pezzullo

Telephone No. (571) 272-3700

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International appli: No

PCT/US06/17281

Box No. I Basis of this opinion

1. With regard to the **language**, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/US06/173

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims 1-173 YES
Claims NONE NO

Inventive step (IS)

Claims 1-173 YES
Claims NONE NO

Industrial applicability (IA)

Claims 1-173 YES
Claims NONE NO

2. Citations and explanations:

Claims 1-173 an inventive step under PCT Article 33(3) as being obvious over Donovan et al. (U.S. Patent No. 6,810,286), Girouard et al. (U.S. Patent Pub. 2004/0158289), Whitehurst et al. (U.S. Patent No. 2004/0106954).

Donovan (col. 3, line 29 - col. 12, line 15; fig. 1), Girouard (pg. 5, [0072] - pg. 19, [0923]) and Whitehurst (pg. 2, [0033] - pg. 14, [0165]) disclose a system, method and device for modifying tissue behavior, comprising: determining a desired modification of tissue behavior for at least one treatment of a disease and assessing tissue response to stimulation; selecting an electric field having an expected effect of modifying protein activity of at least one protein; and applying said field to said tissue.

Claims 1-173 an inventive step under PCT Article 33(3) as being obvious over Duverger et al. (U.S. Patent Pub. 2003/0100889) and Ladner et al. (U.S. Patent No. 5,962,246).

Duverger (pg. 2, [0025] - pg. 6, [0069]) and Ladner (col. 12, line 49 - col. 13, line 26) disclose a method, system and kit for modifying tissue behavior, comprising: determining a desired modification of tissue behavior for at least one treatment of a disease and modifying protein activity to treat disease.